

a modifying unit which modifies a form of a part of the inputted 3-dimensional form data with maintaining a form of other parts thereof based on 2-dimensional image data of the object.

claim 1

In Munetsugu, a size of a hair image is merely adjusted to a size of a face information model. In other words, the face information model, as 3-dimensional form data, is only enlarged and reduced in its entirety. Thus, Munetsugu does not disclose or suggest modifying "...a form of a part of the inputted 3-dimensional form data with maintaining a form of other parts thereof." Thus, claims 1, 2-8 and 10-13 depending from claim 1, are patentable over Munetsugu.

Claim 2 requires, *inter alia*:

a second generating unit which generates the 3-dimensional form data of the object independent of the 2-dimensional image data generated by the first generating unit; and

means for inputting the 2-dimensional image data and the 3-dimensional form data of the object to the data processing apparatus.

An example of the arrangement recited in claim 2 is shown, for example, in Fig.

4. The Examiner, at page 3, admits that Munetsugu "did not explicitly disclose 3-dimensional form data and 2-dimensional image data." Given such admission, it is clear that Munetsugu does not disclose "a second generating unit which generates the 3-

dimensional form data of the object independent of the 2-dimensional image data generated by the first generating unit."

Thus, claim 2 is patentable over Munetsugu for reasons that are additional to the reasons as to why claim 1, from which claim 2 depends, is patentable over Munetsugu.

As to claim 3, Munetsugu discloses (column 5, lines 29-38) that a hair removed image 16 is generated by specifying removal region 15 from a front face image 23 (2-dimensional image) and modifying the front face image 13. However, any modification

But the
ref. does
generate a
MODEL - 3D &
IMAGE - 2D
see p.3 of objection

of 3-dimensional data is not disclosed in this description of Munetsugu. More specifically, it is merely explained that a face surface model 14 is used in order to determine the removal region 15. In Munetsugu, except for the description of Fig. 13, nothing discloses or suggests modification of 3-dimensional form data.

Thus, claim 3 is patentable over Munetsugu for reasons that are additional to the reasons as to why claim 1, from which claim 3 depends, is patentable over Munetsugu.

Claim 11 recites;

said modifying unit modifies the form of the part of the 3-dimensional form data to emphasize a portion of the object corresponding to the part.

As described above, Munetsugu discloses that 3-dimensional form data are modified only in the description of Fig. 13 and all other parts of the reference disclose that 2-dimensional image is modified. According to the description of Fig. 13, a size of a face information model is changed in order to adjust a size of a hair image to the size of the face information model. Munetsugu does not disclose modifying "...a form of a part of the inputted 3-dimensional form data with maintaining a form of other parts thereof", let alone modifying "...the form of the part of the 3-dimensional form data to emphasize a portion of the object corresponding to the part."

Claim 12 recites

said modifying unit modifies the form of the part of the 3-dimensional form data to smooth a portion of the object corresponding to the part.

The Examiner admits that Munetsugu fails to disclose: smooth a partial form, but contends that it is obvious to smooth[ing] the images during image processing for blurring and for noise reduction, the blurring is used in preprocessing steps such as removal of small details from an image.

The Examiner did not make out a Prima Facie Case as to claims 12,

While the Examiner contends that the distinction between claim 12 and Munetsugu is obvious, no evidence has been provided in the record as that such distinction is obvious or that it would have been obvious to one of ordinary skill in the art to modify the Munetsugu's image processing system ... by introducing the know feature of smoothing the images during the image processing for blurring and for noise reduction, the blurring is used in preprocessing steps such as removal of small details from an image, as it is known to having a smoothing of the images during the image processing for removal of small details from an image, such contention is not objective evidence.

Reliance upon only statements by the Examiner as to what is "well known" in the art to reject claims is merely the opinion of the Examiner and not objective evidence that claim 12, as a whole, is obvious within the meaning of 35 U.S.C. § 103. See *In re Zurko*, 258 F.3d 1379, 59 USPQ2d 1693 (Fed. Cir. 2001) and *In re Lee*, 277 F.3d 1338, 61 USPQ2d 1430 (Fed. Cir. 2002). These decisions clearly support the position that a rejection of a claim(s) under 35 U.S.C. § 103 requires objective evidence of record, not just the opinion (of the Examiner).

Thus, claims 11 and 12 are patentable over Munetsugu for reasons that are additional to the reasons as to why claim 1, from which claims 11 and 12 depends via claim 10, is patentable over Munetsugu.

II. Claim 9 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Munetsugu in view of Applicants Admitted Prior Art (AAPA).

The rejection is respectfully traversed.

Claim 9 recites:

...for extracting the first area, area division is carried out for a shade portion of the object by referring to the 2-dimensional image data of a surrounding portion.

It is clear that Applicants describe that “a known graphic technique such as providing with a shade is used to make a good show,” at page 17 of the present specification. However, this description does affect the patentability in claim 9.

More specifically, what is described at page 17 of the present specification is a display of a 3-dimensional form model, and the description has no relation with area division from a 2-dimensional image, as recited in claim 9. In other words, the description at page 17 of the present specification that “a known graphic technique such as providing with a shade is used to make a good show” has nothing to do with the recitation that area division is carried out with respect to a shade portion of an object. Accordingly, AAPA at page 17 does not teach nor suggest that for extracting the first area, area division is carried out for a shade portion of the object by referring to the 2-dimensional image data of a surrounding portion.

Furthermore, even if area division with respect to the shade portion of the object is known, it is not known that the area division is carried out with reference to image data of a surrounding portion. Area division with respect to the shade portion of the object is not referred to at page 17 of the present specification; i.e., Applicants do not mention that this is known.

Thus, claim 9 is patentable over Munetsugu for reasons that are additional to the reasons as to why claim 1, from which claim 9 depends via claim 6, is patentable over Munetsugu.

III. The Examiner further maintains that:

Claims 14-20 are rejected for the same reasons as set forth for claims 2, 3, 5, 6, 8, 11 and 12 because claims 14-20 are claiming similar subject matter as claims 2, 3, 5, 6, 8, 11 and 12 respectively.

Claims 21-25 are rejected for the same reasons as set forth for claims 1-13 as claims 21-25 are claiming similar subject matter as one of the combination of the claims 1-13.

Claims 29-31 are rejected for the same reasons as set forth for claims 1-13 as claims 29-31 are claiming similar subject matter as one of the combination of the claims 1-13.

Claims 34-35 are rejected for the same reasons as set forth for claims 1-13 as claims 34-35 are claiming similar subject matter as one of the combination of the claims 1-13.

Claims 37-39 (independent claims) are rejected for the same reasons as set forth for claims 1-13 as claims 37-39 (independent claims) are claiming similar subject matter as one of the combination of the claims 1-13.

The rejections are respectfully traversed for the same reason as to why the rejections of claims 1-13 are traversed.

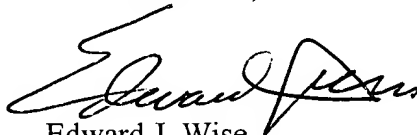
CONCLUSION:

Accordingly, it is urged that the application, as now amended, is in condition for allowance, an indication of which is respectfully solicited. If there are any outstanding issues that might be resolved by an interview or an Examiner's amendment, Examiner is requested to call Applicants' attorney at the telephone number shown below.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 500417 and please credit any excess fees to such deposit account.

Respectfully submitted,

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